1949 File No. Essen. supplies II/49(N)

Legal Deptt.

B BRANCH

Subject:— Notifications under the Essential Supplies (Temporary powers) Act 1946

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P-9
1949

II/49
Essen. Supplies
(N)

File No.
Gen. 194 e.

134-B

Legal Department.

The Government of India, Ministry of Works, Mines and Powers, Notification No. W.M.P. (F.D.) 50(8), dated the 14th June 1948, in effect supersedes the Notification in the Ministry of Transport No. 6 FR(2) /47, dated the 13th September 1947. The Notification issued by the Government of Bombay in the Home Department No. 4575/4-E, dated 31st May 1948 has been validly issued in virtue of the powers delegated to it by the latter notification of the Government of India and is effective in law even now. Although the Press Note issued by H.D. states that the said order was intended for emergency, the order itself does not refer to any emergency. If, however, such orders are required to be issued in any district the District Magistrate can independently now issue them in virtue of the powers delegated to him by the Ministry of Works, Mines and Powers, Notification No. W.M.P.(F.D.) 50(8), dated 14th June 1948.

O.O/24/- J.M.Dhurandhar,

8 -10

Additional Secretary to Government.

J.M. to H.D.No. 371, dated the 13th January 1949.

S.A.M.
9-1
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Legal Department.

The proposal of Home Department o to empower the rovincial Rationing Authority and the Area Rationing uthorities to exercise the powers under section 3 of he Essential Supplies (Temporary Powers) Act, 1946, mounts to redelegating to the said officers the powers nder section 3 which have been delegated to the Government f Bombay under the Government of India, Ministry of Works, ines and Powers, Notification dated 14th June 1946 (page 24) nd as such is ultra vires.

2. The intention appears to be that when a District agistrate makes an order referred to at page 35 in an mergent time, the Area Rationing Authorities should have he power along with the District Magistrate to endorse a oupon or receipt or special receipt sepcified in such rder. The feasible course is that the Central Government hould be asked to authorise Area Rationing Authorities o exercise the power to re-validate the coupons, etc.

O.O. Sd/- J.R.Dharandhar,
17-5

Additional Secretary to Government.

U.O. to H.D., No. 5474, dated the 17th May, 1949.

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Legal Department.

The draft at page 163 ante is not in order. It appears from 'A' of the A. & R. D.D.'s note at p. 161 that the Fruit Development Adviser to the Government of India has continued to be a licensing authority under the order. In consequence of the transfer of enforcement functions to the Provincial Government the only change effected in clause 5 of the Order is that every application for a licence is to be submitted through the Provincial Government concerned to the Licensing Officer. The powers under clauses 10, 14 and 17 are to be exercised by the licensing officer. The licensing officer as defined in clause 2(c) of the Fruit Products Order, 1945, includes any officer authorised by the Fruit Development Adviser to the Government of India to perform all or any of the functions of the licensing officer under the Act. Though the enforcement of the Order has been entrusted to the Provincial Government even now the licensing officer is competent and the Provincial Government is not competent under the order as it stands to issue any authorisation to the Assistant Horticulturist to the Government of Bombay under clauses 10, 14 and 17 of the Order.

2. The notification No. F.F. 1818 /43-B, dated the 1st March 1949, purported to have been issued by the Fruit Development Adviser and referred to in the preamble in the A & R.D.D.'s draft at page 163 is not a valid authority for enabling the Provincial Governments to issue the proposed notification. The Provincial Government obviously not being officers of the Fruit Development Adviser cannot validly authorise them under clause 2(c) of the Order to exercise the functions specified in clauses 10, 14 and 17 of the Order.

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3/ The Fruit Development Advisor to the Government of India may be approached to issue the necessary notification under clause 2(e) of the Order. It may however be brought to his notice that the word "Act" in the said clause 2(e) should be substituted by the word "Order" as the functions under the Order are intended to be delegated.

O.C. Sd/-J.R.Thurandhar.
27-5

Additional Secretary to Government.

U.S.R. to A. & R.D.D.No. 5947, dated 27th May 1949.

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Local Department.

The proposal of R.D. as disclosed in the draft at p. 166 ante is to authorise the Assistant Horticulturist to Government to exercise the powers in respect of provisions contained in clauses 10, 14, and 17 of the Order. These were the powers of a Licensing Officer under the Order before it was amended. The effect of the amendments made by the Central Government in clauses 10 and 14 is that the powers under these clauses are now exercisable by the Provincial Government. The effect of the amended ~~xxx~~ clause 10 is that the Provincial Government alone and none else can direct what books, accounts and other records relating to the business of a manufacturer shall be kept. The only power which the Provincial Government can now delegate to the Assistant Horticulturist to Government under clause 14 is to-

(i) ask him to inspect any book, or other document relating to the manufacture and disposal of fruit products (of clause 14(c), and

(ii) ask him to enter and search any premises and seize any fruit products in respect of which he has reason to believe that a contravention of the order has been committed (of clause 14(d)).

The power under clause 17 has been deliberately kept with the Licensing Officer.

2. R.D. should consider whether the delegation of powers at 'A' above to the Assistant Horticulturist to Government would be sufficient to administer the order in this Province.

Sd/ - J.E.Dharan

23-6

Additional Secretary to Government.

U.O. to A.R.D.D.No. 6972, dated 23rd June 1949.

S.A.K.
9-6
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Under the Government of India, Ministry of Works, Mines and Power's Notification No. W.M.P. (P.D.) 505(8), dated the 14th June 1946, a District Magistrate, is competent to make an order under the Essential Supplies (Temporary Powers) Act, 1946, in relation to motor spirit.

2. The District Magistrate have decided on policy, to make an order, the only functions that are proposed to be entrusted to the Area Rationing Authorities are to receive applications for endorsement and to endorse the coupons etc. These functions being of executive character can be entrusted to the Area Rationing Authorities by the District Magistrate who is competent to make such an order.

3. Similarly the Provincial Government, which is competent to make an order under the Government of India Notification at page 2/ can entrust the functions of receiving applications and endorsing coupons etc. to the Provincial Rationing Authority.

4. It appears from the similar order at page 5 made by the Central Government in respect of the Chief Commissioner's Province of Delhi that the Provincial Rationing Authority and two other Officers have been entrusted with the functions of receiving applications and of making endorsement on coupons etc.

5. The form of the Government of India's order at page 5 ante would be suitable.

C.C. Sd/- J.N.Ramaswamy.
23-7

Additional Secretary to Government.

H.D.No. 8363, dated 25th July 1949.

Legal Department.

The proposal of the Labour Department to make an order under section 3 of the Essential Supplies (Temporary Powers) Act, 1946 read with the Government of India, Ministry of Industry and Supply, Notification No. 1(1)-1(767), dated the 15th October 1945, is not in order. The proposal is covered by the provisions contained in clause (d) of sub-section (2) of section 3 of the Essential Supplies (Temporary Powers) Act, 1946. The delegation notification referred to by the Labour department restricts the power of the Provincial Governments to the making of orders under clauses (h) and (j) of sub-section (2) of section 3 of the Act in relation to the use of steel in the construction of building. Clause (h) empowers the Government to make an order for collecting any information or statistics with a view to regulating or prohibiting any of the matters referred to in the preceding clauses, and clause (j) empowers the Government to make an order for any incidental and supplementary matters etc. The aforesaid two clauses would not by themselves empower the Provincial Government to make the proposed order. It is necessary that the Provincial Government should possess the power under clause (d) of sub-section (2) of section 3 of the Act before the proposed order is made. The Labour Department should therefore, ascertain whether the powers under clauses (a) to (f) of sub-section (2) of section 3 of the Act and particularly under clau (d) thereof have been delegated to the Provincial Government in relation to iron and steel. If such delegation has been given, the Labour Department should forward a copy thereof for perusal.

2. A general of special written order issued under clause 4 read with clause 8 of the Iron and Steel (Control of Production and Distribution) Order, 1941, should not contain any condition which is inconsistent with the proposed order.

O.C. 22-8 Sd/-J.N.Dhurandhar.

Additional Secretary to Government.

U.O. to Labour Deptt., No. 9493, dated the 23rd August 1949.

Legal Department.

A revised draft notification is sent herewith.

2. The execution of the Order in so far as licenses are concerned is left to the Provincial Government. The Provincial Government can therefore appoint more than one authority for different areas in the Province.

O.C 24-9 Sd/-J.R.Khurandhar.

Additional Secretary to Government.

U.O. to P.D.No. 10777. dated the 26th September 1949.

M.A.K.
9-6
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NOTIFICATION.

Finance Department.
Bombay Castle, 1943.

No. :- In pursuance of sub-clause (g) of clause 2 of the Cotton Control Order, 1943, the Government of Bombay is pleased to appoint the officers specified in column 1 of the Schedule appended hereto, to be the licensing authorities for the areas specified against them in column 2 of the said Schedule.

SCHEDULE.

Officer 1	Area. 2
1. The Assistant Secretary to the Government of Bombay in the Finance Department.	The Greater Bombay.
2. The District Magistrates	The areas comprised within the limits of their respective jurisdiction.

By order of the Governor of Bombay,

Secretary to Government.

S.A.K.
9-6
4 copies

Legal Department.

The draft Notification at page 57 ante as amended is inorder.

2. The course suggested at 'B' of H.D. note at p. 54 ante is free from legal object.

Sd/- J.R.Dhurandhar,
24-9

Additional Secretary to Government.

U.R. to H.D.No. 10625, dated the 27th September 1949.

S.A.K.
3-5
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NOTIFICATION.
S. 4576/4
Home Department.
Bombay Castle. 1949.

Essential Supplies (Temporary Powers) Act, 1946.

In exercise of the powers conferred by section 3 of the Essential Supplies (Temporary Powers) Act, 1946, read with the Notification of the Government of India, Ministry of Works, Mines and Power No. WMP(P. D.) 505(8), dated the 14th June 1948, the Government of Bombay is pleased to order as follows:-

(1) Notwithstanding anything to the contrary contained in the Motor Spirit Rationing Order, 1941, no coupon or receipt or special receipt issued under the said Order shall be valid e in Greater Bombay unless it is endorsed by one of the officers mentioned in the Schedule hereto.

(2) Any person who is lawfully holding coupons, receipts or special receipt may apply to one of the officers mentioned in the said Schedule for endorsement thereon and produce before the officer concerned certificate of registration of vehicle or in the case of state carriage, part 'A' of the permit in respect of which the coupon, receipt or special receipt has been issued.

(3) This Notification shall come into force immediately, and shall remain in force up to .....

SCHEDULE.

(1) The Provincial Rationing Area Authority, Bombay

(2) The Area Rationing Authority, Bombay.

By order of the Governor of Bomba

Secretary to Government.

1916

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